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8 **BEFORE THE**
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. OT 2005-42

12 OAH No. Unassigned

13 **LAURA ANN CERRONE**

DEFAULT DECISION AND ORDER

14
15 Respondent.

[Gov. Code, §11520]

16
17 **FINDINGS OF FACT**

18 1. On or about December 29, 2009, Complainant Heather Martin, in her official capacity
19 as the Executive Officer of the Board of Occupational Therapy, filed Accusation No. OT 2005-42
20 against Laura Ann Cerrone (Respondent) before the California Board of Occupational Therapy,
21 Department of Consumer Affairs (Board).

22 2. On or about December 23, 2002, the Board issued Occupational Therapy License No.
23 OT 4947 to Respondent. The Occupational Therapy License (license) was in full force and effect
24 at all times relevant to the charges brought herein and expired on May 31, 2009. The license has
25 since not been renewed.

26 3. On or about February 18, 2009, Thurman Peden, an employee of the Department of
27 Justice, served by Certified and First Class Mail a copy of the Accusation No. OT 2005-42,
28 Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code

1 sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which
2 was and is:

3 280 East Del Mar #218

4 Pasadena, CA 91101.

5 A copy of the Accusation is attached as exhibit A, and is incorporated herein by reference.

6 4. Service of the Accusation was effective as a matter of law under the provisions of
7 Government Code section 11505, subdivision (c).

8 On or about February 25, 2009, the aforementioned documents were returned by the U.S.
9 Postal Service marked "Not Deliverable as addressed; Unable to forward."

10 5. Thereafter, the Deputy Attorney General assigned to this matter, Kevin J. Rigley
11 (DAG Rigley), received a phone call from Respondent, who advised that though she had become
12 independently aware of the instant Accusation pending against her, she had never received a copy
13 of same or any other documents in connection therewith because she was no longer residing at the
14 address of record on file with the Board. Accordingly, DAG Rigley reminded Respondent that
15 she should formally notify the Board regarding her change of address and as a courtesy to her, on
16 March 5, 2009, DAG Rigley sent Respondent a copy of the Accusation and accompanying
17 documents (including a Notice of Defense form) to her new stated current address, at:

18 1420 36th Avenue

19 San Francisco, CA 94122.

20 6. Respondent subsequently acknowledged to DAG Rigley in a phone conversation on
21 March 25, 2009 that she did receive the Accusation and accompanying documents that had been
22 sent to this new address, and in fact, such documents were never returned by the U.S. Post Office.

23 Respondent was also advised by DAG Rigley at that time and on other subsequent
24 occasions that she still needed to fill out, sign and date the Notice of Defense form, and either fax
25 or mail same to DAG Rigley in order to preserve her right to defend herself in regard to the
26 instant pending Accusation against her. The subject of a possible pre-hearing settlement
27 agreement which would allow her to be placed on probation and keep her license was also
28 discussed with Respondent at that time. Respondent expressed what appeared to be a sincere

1 interest in resolving the instant matter against her in such a manner, but also indicated that she
2 had some questions about one or more factual allegations contained in the Accusation itself.
3 Respondent was advised by DAG Rigley that she should pose any such questions in writing and
4 send them to him. She was also again reminded that she would still need to complete and submit a
5 Notice of Defense form.

6 7. On or about May 19, 2009, upon noting that Respondent had continued in her failure
7 to tender a Notice of Defense in this matter (and/or her above-proposed questions), or otherwise
8 attempt to contact DAG Rigley or any representative of the Board, DAG Rigley telephoned
9 Respondent and again reminded her that if she continued in her failure to submit a Notice of
10 Defense form, a default would be entered against her and her license would likely be revoked as a
11 result thereof. Respondent then indicated that it might be difficult for her to find the original
12 Notice of Defense form that was sent to her. Accordingly, DAG Rigley offered to send her
13 another one by e-mailing it to two separate e-mail addresses provided by Respondent at that time.
14 Thereafter, DAG Rigley promptly attempted to send another Notice of Defense form to
15 Respondent to the two separate e-mail addresses Respondent had provided, but both were
16 returned as undeliverable.

17 8. From on or about May 20, 2009 through June 8, 2009, DAG Rigley attempted to
18 contact Respondent by phone on at least five occasions, but was unable to reach her. Voice mail
19 messages instructing Respondent to call DAG Rigley were left by him during the first few
20 attempts, but Respondent never returned these calls. Thereafter, DAG Rigley's next couple of
21 attempts to contact Respondent was met with the recorded message "mailbox full". On June 8,
22 2009, DAG Rigley's final effort to contact Respondent resulted in his receiving the following
23 message from Respondent's cell phone carrier: "At the subscriber's request, this phone does not
24 accept incoming calls".

25 9. Government Code section 11506 states, in pertinent part:

26 (c) The respondent shall be entitled to a hearing on the merits if the respondent files a
27 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
28

1 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's
2 right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

3 Respondent failed to file a Notice of Defense within 15 days after service upon her of the
4 Accusation, and therefore waived her right to a hearing on the merits of Accusation No. OT 2005-
5 42.

6 10. California Government Code section 11520 states, in pertinent part:

7 (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
8 agency may take action based upon the respondent's express admissions or upon other evidence
9 and affidavits may be used as evidence without any notice to respondent.

10 11. Pursuant to its authority under Government Code section 11520, the Board finds
11 Respondent is in default. The Board will take action without further hearing and, based on the
12 evidence on file herein, finds that the allegations in Accusation No. OT 2005-42 are true.

13 12. The total cost for investigation and enforcement in connection with the Accusation
14 are \$10,953.50 as of June 10, 2009.

15 DETERMINATION OF ISSUES

16 1. Based on the foregoing findings of fact, Respondent Laura Ann Cerrone has
17 subjected her Occupational Therapy License No. OT 4947 to discipline.

18 2. A copy of the Accusation is attached as Exhibit "A".

19 3. The agency has jurisdiction to adjudicate this case by default.

20 4. The Board is authorized to revoke Respondent's Occupational Therapy License based
21 upon the following violations alleged in the Accusation:

22 a. Code section 2570.29 (Practicing while impaired by dangerous drugs/alcohol, as
23 defined by Code section 4022);

24 b. Code section 2570.29 (Unprofessional Conduct).

25 ORDER

26 IT IS SO ORDERED that Occupational Therapy License No. OT 4947, heretofore issued to
27 Respondent Laura Ann Cerrone, is revoked.

1 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
2 written motion requesting that the Decision be vacated and stating the grounds relied on within
3 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
4 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

5 This Decision shall become effective on July 22, 2009.

6 It is so ORDERED June 22, 2009.

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9 _____
10 FOR THE BOARD

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17 default decision_LIC.rtf
18 DOJ docket number:LA2008601142

19 Attachment:

20 Exhibit A: Accusation No.OT 2005-42
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